

REMARKS

This submission is in response to the Office Action dated October 28, 2004.

Claims 1, 25, 26 and 34 have been amended. Claims 1, 2, 4-8, 20, 22, 25-28, 30, 31, 33, and 34 are currently pending.

The specification has been amended above to include reference to the issued patent in the cross-reference to related applications.

Claims 1 and 34 have been amended to clarify that the claimed polypeptides have at least one biological activity of Hairless. Support for the amendment may be found at page 10, lines 24-25 and page 13, lines 7-11. Claims 25 and 26 have been amended to maintain antecedent basis with claim 1. No prohibited new matter has been added.

Objection to the specification

The specification was objected to for failing to indicate that the '354 application is now a patent. This informality has been corrected by way of amendment above. Accordingly, the objection may be withdrawn.

Rejection of claims under 35. U.S.C. 112 first paragraph

Claims 1, 4, 6, 7, 20, 22, 25-28, 30, 31, 33 and 34 have been rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification. Essentially, the Examiner maintains the position that the specification does not teach variants of SEQ ID No. 2 having activity, and again suggests that Applicant amend claim 1 with the limitations of claim 2 to overcome the rejection. The Examiner's position is based on the assertion that one skilled in the art would need to perform an assay for hairless transcription activity before they would know whether a given polypeptide falls within the scope of the claims.

Applicants respectfully submit that such an assay would not be necessary given that the structural properties of the claimed polypeptides are clearly stated in the claim. Furthermore, the skilled artisan would normally perform a sequence comparison to determine if a given polypeptide falls within the scope of the claims, as described at pages 6-7 of the instant specification.

Nevertheless, in an effort to expedite allowance, Applicants have amended independent claims 1 and 34 to indicate that the claimed polypeptides have at least one biological activity of Hairless. Hairless has many biological activities in addition to transcription factor activity, as is evident in the specification at pages 13, lines 7-10, which lists various activities of Hairless, and in the Examples section at pages 29-30, which discusses how Hairless interacts with the thyroid hormone receptor. Accordingly, it would be unduly limiting to limit claims 1 and 34 to polypeptides having Hairless "transcription" activity. It appears, however, that the above amendments satisfy the Examiner's requirement that structure and function be set forth in the claims. Accordingly, the rejection under §112, first paragraph may now be withdrawn.

Rejection of claims under 35. U.S.C. 112 second paragraph

Claims 1, 4, 6, 7, 20, 22, 25-28, 30, 31, 33 and 34 have been rejected under 35 U.S.C. §112, second paragraph as being allegedly indefinite. In particular, claims 1 and 34 have been rejected for using the term "identical" rather than "identity," and because the claimed polynucleotides cannot be encoded by the complementary or non-coding strand of DNA. Applicants have amended claims 1 and 34 above to delete reference to complementary DNA, and to use the word "identity" rather than "identical." Withdrawal of the rejection is respectfully requested.

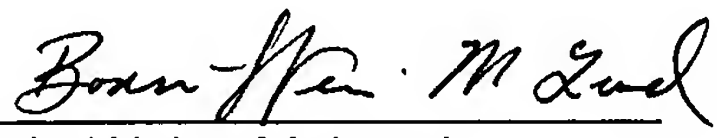
Conclusion

Having responded to all pending rejections in the Office Action, Applicant urges that the claims are in condition for allowance and earnestly solicits an early Notice to that effect.

Except for issue fees payable under 37 CFR §1.18, the commissioner is hereby authorized by this paper to charge any additional fees during the pendency of this application including fees due under 37 CFR §1.16 and 1.17 which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account 50-0310. This paragraph is intended to be a **CONSTRUCTIVE PETITION FOR EXTENSION OF TIME** in accordance with 37 CFR §1.136(a)(3).

If the Examiner has any further questions relating to this Reply or to the application in general, she is respectfully requested to contact the undersigned by telephone so that allowance of the present application may be expedited.

Respectfully submitted,
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